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Minutes of the Meeting of the City Council of West Bountiful City held on Tuesday, August 21, 2012 at West Bountiful City Hall, Davis County, Utah

Those in Attendance

MEMBERS PRESENT: Mayor Kenneth Romney, James Ahlstrom, Mark Preece, James Bruhn, Dave Tovey, Debbie McKean.

STAFF PRESENT: Craig Howe (City Administrator), Heidi Voordeckers (City Recorder), Ben White (City Engineer), Steve Doxey (City Attorney), Officer John Rasmussen, Cathy Brightwell (Deputy Recorder), Bev Haslam, Steve Maughan (Public Works Director), Nathalie Ellingson (secretary). Chief Todd Hixson was excused.

VISITORS: Jim Rampton, , Alan Malan, Denis Hopkinson, Ann P. Gale, Mike Berg, Brady Tracy, Rikki Hatch, Robin Smithson, Kelly Enquist, Gary Jacketta, Jerri Palmer, Christine Harker, Kent Harker, Brad Jensen, Michelle Jensen, Denise Montgomery, Nick Marvidakis, Brent and Nedra Thomas, Lanier Gardner, Bob Thomas, Boyd Papworth, Beckett Carbone, Doug Coons, Darrin Zesiger, Don Zesiger, Rob Knighton, Jared Boderick, Kim Bangerter, David Smith, CeCe Bangerter, Foster and April Harrison, Karma Robinson, Kari and HB Smith.

Called to Order:

Mayor Romney called this meeting to order at 7:34 pm.

Invocation/Thought – Troop 669 Boy Scout Nathan Hadley recited the Scout Oath and AJ Hadley recited the Scout Law.

Pledge of Allegiance led by Boy Scout Joseph Martin.

Accept Agenda

**Public Comment** 

Mayor Romney recommended moving Item 7 to 2a as the fire chief was there for the discussion.

MOTION: Debbie McKean moved to accept the agenda with change.

SECOND: Dave Tovey seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom - Aye Mark Preece - Aye James Bruhn - Aye Dave Tovey – Aye Debbie McKean – Aye

No comments.

2a.

Consider Approval of Ordinance 349-12, an Ordinance Adopting an Impact Fee

Facilities Plan for Fire/EMS Impact Fees,

a Written Analysis of Fire/EMS Impact Fees, Enacting Impact Fees, and Establishing a

Service Area for Purposes of Equitable

Distribution of the Impact Fees. 62

Fire Chief Jim Rampton from the South Davis Metro Fire District – the ordinance was previously reviewed by council at the last City Council meeting. The reason for the change in impact fees is that the original fees established were based on projected construction costs when the district was established. The new impact fees were established per a study by Lewis Young Robertson & Burningham and are based on actual costs of construction. Debbie McKean asked for a clarification of Page 8 Section 7, fee exceptions and adjustments. Chief Rampton stated the city council has the authority to grant a waiver where cause is shown for a lower rate or no rate. She asked if the city would have to pick up the fee. Chief Rampton said the cities are assessed per a formula, and no city has had to pick up a fee in the past.

MOTION: James Ahlstrom moved to approve Ordinance 349-12 adopting an Impact Fee Facilities Plan for Fire/EMS Impact Fees, enacting impact fees and establishing a service area for purposes of equitable distribution of the impact fees.

SECOND: Dave Tovey seconded the Motion.

PASSED: Voting by roll call was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

Public Hearing to Receive Input on a Request to Vacate a Rear Yard Easement at the Property Located at 1093 North 600 West

The Berg family was present at the meeting to answer any questions from the council. Their property is at the end of a cul-de-sac and is irregular in shape. The Bergs want to build a barn on the rear of their property, but there is a 10' utility easement along the edge of the property. The staff has seen no reason not to vacate the east-west easement. Rocky Mountain Power requires an agreement with the city releasing them from liability for damages to property. Mr. Berg was advised that he will need to postpone construction until after the agreement has been drafted, approved by legal counsel, and recorded.

7:50 pm

MOTION: Dave Tovey moved to open the Public Hearing.

SECOND: James Ahlstrom seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

No public opinions or comments.

MOTION: Debbie McKean moved to close the Public Hearing.

SECOND: Dave Tovey seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

4. Consider Approval of Resolution 298-2012, a Resolution Releasing a Utility Easement for the Property Located at 1093 North 600 West, West Bountiful, Utah.

MOTION: James Ahlstrom moved to approve Resolution 298-2012 releasing the utility easement for the property located at 1093 North 600 West, West Bountiful, Utah, conditioned upon first entering into an indemnity agreement drafted by City Attorney Steve Doxey.

SECOND: Debbie McKean seconded the Motion.

PASSED: Voting by roll call was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

Public Hearing to Receive Input on Proposed Changes to Title 17 of the West Bountiful Municipal Code Related to Allowable Points for Farm Animals in Residential Zones.

7:58 pm

MOTION: James Bruhn moved to open the Public Hearing.

SECOND: Dave Tovey seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye
Mark Preece – Aye
James Bruhn – Aye
Dave Tovey – Aye
Debbie McKean – Aye

Brad Jensen – The Jensens had met with the Planning Commission requesting a conditional use permit that would reduce the points on their horses to 20 points each and they were refused the permit. Mr. Jensen pointed out that horses are herd animals and they thrive better when in pairs. The subdivision where he lives was zoned for 1/2 acre lots but the master plan called for a horse trail, which reduced the lots to just under 1/2 acre. A number of his neighbors have been issued conditional use permits and have had two or more horses on their properties. The neighbors have brought up the issue of dust and flies from his animals. He maintains that is part of living in West Bountiful, and that the flies probably come from the land fill. He asked the city why they do not let the Planning Commission do its job. If a conditional use permit is granted and there are complaints later, the permit can be revoked. He asked the city to follow the Planning Commission's recommendation.

Jerri Palmer – 1030 West 600 North – she chose to buy a home in West Bountiful 26 years ago because she wanted the privilege to own farm animals. She supports the current ordinance and finds it to be fair and specific. Since she has lived here, the ordinance has been enforced based on the honor system and her neighbors have chosen not to follow it. They have argued that they are doing what they were told by the city, but Ms. Palmer feels she is being lied to. She stated it is the responsibility of new property owners to learn about the ordinances pertaining to their property before they move in. She stated the situation has escalated to personal threats from her neighbor. She is asking the city leaders to help all her neighbors be in compliance to the farm animal ordinance.

Mayor Romney asked that comments be directed towards the ordinance itself.

Brent Thomas – He has been a resident for 20 years. He was unfamiliar with the ordinance being discussed and asked for clarification as to the changes in the new document. He understood from Mr. Jensen's comments there was a problem with the number of points allowed on a 1/2 acre lot, but it was explained to him the Jensens' lot is slightly under 1/2 acre. He stated, from reviewing the new draft, it seemed to him the city has been working with the people who are responsible with their animals, and when there is a problem, they can fall back on the ordinance. When complaints come up, the city staff should visit the lot to determine the validity of the complaint, and he also stated people moving in should understand the nature of West Bountiful as a rural community. He is concerned about problems in neighborhoods and does not want to see West Bountiful lose its rural character.

Karma Robinson – 1055 West 600 North – she is a neighbor to the Jensens, and asked that all her neighbors get along. She has had worse neighbors just because of garbage and weeds in their yards. She said most people clean up after their animals. She agrees with the ordinance, but does not like it to change with each new city council. New people move into West Bountiful, they have complaints, and then the ordinance gets changed again. She sees neglected animals in the city, even dogs, and wants the city to respond to those situations.

Dave Tovey remarked that unfortunately this council cannot bind future councils.

Ann Gale – 1505 North 550 West – She asked how many animals can be on a 1 acre lot and was told each horse is 40 points and then smaller animals have less points. A conditional use permit can reduce those points by up to half, and is granted after the Planning Commission has examined the property.

Dave Smith – 585 North 975 West – He stands with the horse people who bought large lots at high prices in order to have horses. He is concerned that if the points become more restrictive, the properties will lose value. Mark Preece pointed out that the points allowed on a property have not been cut, and Mr. Smith explained he meant they should not cut them in the future. He recommended a grandfather clause be written in to protect current property owners from changes by future councils. Council stated a grandfather clause already exists.

At this point, Heidi Voordeckers suggested a brief explanation of the changes in the ordinance being considered in this public hearing.

Cathy Brightwell – A flyer was sent to all residents regarding this public hearing because the council wanted to be sure they knew everything the public had to say regarding the ordinance. Research showed that the first

one horse on a minimum of 1/2 acre. Barns and corrals were to be 150 feet from a street and 100 feet from any dwelling. In 2001, the city developed the point system, and those points have remained the same until today: 40 for large animals, 20 for medium animals, and 4 points for small animals. The minimum area required was 1 acre. Setbacks were changed at that time to 10 feet from a property line and 75 feet from a dwelling. In 2004, they removed the 1-acre minimum for A-1 zone (west of 1100 West) and R-1-22 zone at the center of the city. Last February they made the next change, which reduced the area required to .4 acre to accommodate the properties that were slightly smaller than 1/2 acre. They also added language allowing for leasing property for animals and providing the ability to get a conditional use permit. Qualifications for getting a permit are listed on the permit itself, and deal with issues such as cleanliness. Under the current proposal, a conditional use permit cuts the points per animal in half. The permit expires at the sale of the property or when the owner is out of compliance. After the ordinance regarding the conditional use permit was approved in February, residents were given one year to apply with no fee. After a year, the fee will be \$20.00.

Gary Jacketta – He has a calving operation and was concerned about there being more animals on his property than allowed. Mark Preece stated that offspring of animals are not assigned points as long as they are dependent on their mothers.

farm animal ordinance was passed in 1983, and that ordinance allowed

Darren Zezicker – 770 West 1600 North – He asked if, under a grandfather clause, the property or the property owners are grandfathered. His property came with a 6-stall barn and he wants to know if the rule for his property is the same as it was before he bought it. He was told his property pre-empted any ordinance. Mr. Zezicker stated he learned to take care of animals and work on a farm when he was young and he wants the same for his children. He is glad the council is trying to make it easier for people to have animals.

Rob Knighton – 821 North 1100 West – His property is in compliance, but he had a question about whether the exception for animal offspring would apply to 4H or FFA projects. The ordinance states the offspring must be dependent on their mother to be exempt. However, the 4H animals are kept by the kids past the time they are dependent on the mothers. Mr. Knighton was concerned because it is so important for children to raise animals so they can develop a sense of responsibility and the rewards of hard work. James Ahlstrom stated that no allowance currently exists in the ordinance for temporary animals, and there never has been a variance for 4H animals. This issue had been discussed by the Planning Commission in the past, but they had questioned what would be considered temporary; ie., three weeks, three months, etc. The council stated they would discuss a variance for 4H projects, but they also suggested Mr. Knighton do some calculations to see if conditional use permits would alleviate any problems for residents involved in 4H.

Christine Harker – 1008 West 600 North – she had provided a letter to council at the last council meeting stating her concerns, but she wanted to voice them in the hearing. She referred to the comment that had been made stating that new residents should expect to live around animals. She stated when she moved into her neighborhood, her neighbors were in compliance, but they moved out and the Jensens moved in, and have been out of compliance. She is concerned that the conditional use permit does not provide enough information as to what is allowed under the permit. She wants it to be clearer for future staff and city councils. She stated different problems have come up at different times with their neighbor, for which she has issued complaints with the city, and therefore she may seem like a complainer. She wants all of her neighbors to work together to get

 this problem alleviated. She proposed neighbors of anyone applying for a conditional use permit be asked to sign off on it, such as businesses are required to do before they get a license. Heidi stated the staff notifies neighbors of a conditional use permit being applied for, but they don't have to sign anything; it's informational only. Ms. Harker asked that the notices be specific as to the reason for an application for a conditional use permit. She also stated she is concerned that the ordinance does not define corrals and pastures, and some people use their back fence as a corral or pasture fence, and large animals can reach over. She had brought up this issue at the last council meeting and council did work on better definitions.

Kent Harker – 1008 West 600 North – He thanked Cathy for her good background explanation. He also has an issue with the conditional use permit. He is concerned that so many have been issued and the city has only turned down three applications. He wants specific reasons for the conditional use permit to be part of the permit. He also stated there is no reason to have an ordinance if the ordinance is not enforced, and his neighbors have been out of compliance for years.

Denise Montgomery – 535 North Jessie's Meadows and 10 acres on 400 North. She is in the "green belt" where the county has asked residents to keep bees. She asked how her bees would fit into the ordinance, and was told the ordinance reflects the Utah Code, which regulates the location of the beehives on the property but not the number of bees. Ms. Montgomery stated she agreed with the ordinance with the changes, but she also agreed the city should look at a variance for 4H projects.

Lanier Gardner – 1011 West 200 North – He recently purchased his house because he was looking for an older property where he could have horses and small farm animals, like he had in Colorado. He thanked the council for easing restrictions, and thinks the conditional use permit is good.

Don Zesiger – 760 W. Pages – He thanked the council for taking the time to listen to the public and get things out on the table. He lost his property in Bountiful where he had animals when they built Tolman Elementary. He then moved to West Bountiful where he could continue to raise animals and teach his kids responsibility. His sons and his grandsons have had plenty to do and he is grateful for that. He was worried when they started the subdivision by his property that he would have to move, but his neighbors there have enjoyed his animals.

Robin Smithson -980 West 400 North - She does not think 1/2 acre is too small for two horses. She does not see people riding their horses anymore, and they need more equestrian trails. No one ever complained about her chickens, and she feels the city is getting hostile to animals. Everyone should get along and we need animals in our lives.

Mike Johnson and Troy Larsen submitted written comments as they could not be at this public hearing. Mr. Johnson stated he thought the ordinance as it existed before February was fine and he does not want the city to become too liberal with animal density. He also disagreed with reducing the setbacks. Mr. Larsen expressed his feeling that animal owners are getting more consideration from the Planning Commission and the council, as opposed to residents who do not own animals and who have objected to reducing the points on animals. Copies of both written comments were provided to council.

9:30 pm

MOTION: James Bruhn moved to close the Public Hearing.

SECOND: Debbie McKean seconded the Motion.

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PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

Mayor Romney – He loves the rural atmosphere, and he has found that even the residents who do not live around animals enjoy being in West Bountiful because of the rural atmosphere. There needs to be a good balance and everyone needs to be sensitive to others. Overall, there have actually been very few problems with animals. The council appreciates the public input. He agrees that the ordinance must be enforced, but they also need to make sure the ordinance is right. The council was not required to hold this public hearing, since the Planning Commission had already held one, but the council felt like they needed to hear more comments. The mayor also thanked the Planning Commission for their work on the ordinance.

Mayor Romney stated the ordinance will be on the agenda for the next council meeting for discussion and the following meeting on September 18 for approval, but he suggested a work session be held before the council meeting where they can discuss the comments made at this public hearing.

Craig Howe mentioned that the Legacy Trail allows equestrian use; also the DSB trail will allow equestrian use when completed.

a Resolution Adopting an Interlocal Cooperation Agreement between Davis County, Utah, and the Following Cities within Davis County: Sunset, Clinton, West Point, Syracuse, Clearfield, Layton, South Weber, Kaysville, Fruit Heights, Farmington, Centerville, West Bountiful, Bountiful, Woods Cross, and North Salt Lake Municipal Corporations Relating to the Establishment of a Davis County Council of Governments.

Consider Approval of Resolution 299-2012,

The current Davis County Council of Governments has members serving who are not elected officials. They had no responsibility to distribute funds. There is now a Corridor Preservation Fund established by the State of Utah for West Davis County, to be used to purchase lands in order to open the western corridor for roads. Only elected officials can distribute funds, so the new resolution is establishing a Council of Government board of only elected officials.

MOTION: James Ahlstrom moved to approve Resolution 299-2012 adopting an Interlocal Cooperation Agreement between Davis County, Utah and the cities named in the resolution referring to the establishment of a Davis County Council of Governments.

SECOND: Debbie McKean seconded the Motion.

PASSED: Voting by roll call was as follows: James Ahlstrom – Aye

Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye

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Debbie	McKean	- Ave
Dennie	WICKCAII	-Avc

Moved to Item 2a.

Consider Approval of Resolution 297-12, a Resolution Authorizing the Issuance and Sale of not more than \$2,200,000 Aggregate Principal Amount of Sales Tax Revenue Refunding Bonds, Series 2012, and Related Matters.

MOTION: James Ahlstrom moved to approve Resolution 297-12 authorizing the issuance and sale of not more than \$2,200,000 aggregate principal amount of sales tax revenue refunding bonds, Series 2012.

SECOND: Debbie McKean seconded the Motion.

PASSED: Voting by roll call was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn - Aye Dave Tovey – Aye Debbie McKean – Aye

9. Consider Notice of Award to KGB Construction in the Amount of \$25,112 for the Construction of a Public Works Washout.

> Ben White – Bids were opened in July for a washout facility to comply with storm drain regulations. It will consist of a concrete pad with water service to it. KGB Construction came in with the low bid. Ben was asking for an extra \$2,000 because of a slight change to the design that was recommended. KGB is a new business, but the owner has done cement work before establishing the business. For references, Ben contacted several people, including his dad, for whom he has done work. There will be a performance bond in place to protect the city. Debbie McKean was concerned that the council did not have anything in writing regarding the references and asked Ben to provide a memo regarding the conversations he had with each reference. Heidi Voordeckers reminded council that under the procurement policy they are required to take the lowest responsible bid.

MOTION: James Ahlstrom moved to approve the Notice of Award to KGB Construction in the amount of \$25,112 for the construction of a public works washout facility, with the addition of a \$2,000 cushion.

SECOND: Mark Preece seconded the Motion.

DISCUSSION: Debbie McKean asked why KGB's bid was so much lower than the others. Ben stated that company bids include their costs for hauling heavy equipment and the distance involved, which accounts for the difference.

PASSED: Voting by roll call was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye

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Debbie McKean – Aye

10. Engineers Report.

## Ben White -

- Tomorrow 1100 West will be closed for Questar to put in a gas
- The storm drain on 400 North has almost reached 975 West. At that point the horseshoe access will be affected. There is currently no mail delivery on 400 North. Temporary mailboxes will be put in by the utility drop. The contractor proposes paving 400 North in two sections. It will be completed up to Prospector Trail by the end of September. This will include the 1100 West intersection. The sidewalks in the horseshoe section will be left free for children walking to school. The contractor will provide someone to guide the children through that area.
- The new well contractor has been drilling the well using a different method and has concluded there is no water in the well. The well has the same soil layers as the test well did, which indicated there was water, but they have not found water in any quantity. The contractor stopped work yesterday. Ben asked the designers for a report which he will give to the mayor along with a financial summary. This affects the agreement with Holly which was contingent on the well and the 500 South water line, but the city had not accepted any money yet.

MOTION: James Ahlstrom moved to extend the meeting past 10:00 pm.

SECOND: Dave Tovey seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean - Aye

The Holly agreement can be renegotiated when a new water source is found. The cost has been \$450,000 to this point. Mayor Romney stated there was always a risk and the city needs to look at the procedures they followed in depth to see if there were any mistakes from which they could learn before another attempt. He suggested they have a work meeting before the next council meeting to discuss this issue.

Mayor Romney stated that the 400 North contractor needs to communicate better with the residents. Some of them had another use for the sod from their park strips, but the contractor threw them out. He asked if all the sprinkler systems had been capped to which Ben replied they had.

11. Police Report

## Officer John Rasmussen –

With the state liquor grant money, the department has hired two part time alcohol enforcement officers. Both have good law enforcement experience, and are working additional DUI shifts throughout the City

- The church at 1930 North 600 West has had broken windows and they were able to find the juvenile suspects.
- The department assisted with the funeral of a highway patrol officer.
- The Safety Fair on July 4th was a great success.
- He stated Chief Hixson wanted to thank the mayor and council members for their support during the last fiscal year. They would not have been able to achieve their success without it.

Finance Report

Heidi Voordeckers Financial reports for the period ending July 31, 2012 were presented to City Council for review. Revenues are ahead of last fiscal year largely due to building permit monies received from Holly Frontier projects. The majority of these fund will be used for inspection fees against the projects. Heidi pointed out the comparison in the cash allocation report from July 2010, 2011, and 2012. The General Fund is ahead \$126,000, and has a current cash balance of \$451,000. Some of this is "rainy day" funds resulting from budget cuts. The golf course revenues for July were slightly below average but net revenue is ahead of prior years due to budget cuts.

Administrative Report

Craig Howe – He handed out a calendar of events regarding the refunding of sales tax revenue bonds. They are currently on the second page of the calendar. He talked about equestrian trails during the animal ordinance discussion.

Approval of Minutes from the

August 7, 2012 City Council Meeting.

MOTION: James Ahlstrom moved to approve the minutes from the August 7, 2012 city council meeting.

SECOND: Debbie McKean seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

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Mayor/Council Reports

Debbie McKean – The newsletter is being put together now; another parks meeting will be held the second Tuesday of September where they will discuss trails and bathrooms.

Dave Tovey – Nothing to report. Mayor Romney suggested to him the youth council could do a service project to clean the trail the end of September.

James Bruhn – He has passed the information he received at the Waste Conference to Steve Maughan and they will go over it in the public works meeting.

Mark Preece – will start working on setting up a Historical Committee meeting.

James Ahlstrom – The council will soon be getting a proposal from Marcus about mowers. He says the golf course is being pushed into buying a mower from one place and he wants to see mowers from several places first. They will discuss this at the golf meeting on Friday. Craig stated bids had been sent to the golf committee but James did not get it. Craig will email it to him.

Mayor Romney – Nothing to report.

17.

**Closed Meeting** 

Not necessary.

18.

Action Following Closed Meeting

None.

19. Adjourn 10:34 pm

MOTION: Debbie McKean moved to adjourn.

SECOND: James Ahlstrom seconded the Motion.

PASSED: Voting was as follows:

James Ahlstrom – Aye Mark Preece – Aye James Bruhn – Aye Dave Tovey – Aye Debbie McKean – Aye

AYOR KEXNETH ROMEY

HEIDI VOORDECKERS (CITY RECORDER)

NATHALIE ELLINGSON (SECRETARY)